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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 24, 1998

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte, in re: Adoption of CASE NO. SEC980020
regulations pursuant to
§ 59.1-92.19 of the Code
of Virginia (Virginia Trademark
and Service Mark Act (1998))

ORDER ADOPTING REGULATIONS

On or about May 4, 1998, the Division of Securities and Retail Franchising ("Division") mailed to persons whose trademarks or service marks are registered or pending registration under the Virginia Trademark and Service Mark Act (§ 59.1-77 et seq. of the Code of Virginia) currently in effect, and to other interested persons, summary notice of proposed regulations and forms designed to implement the new Virginia Trademark and Service Mark Act (1998) ("Act").¹ The notice also invited the filing of written comments and included information about requesting a hearing with respect to any objections to the proposals. Similar notice was published in several newspapers in general circulation throughout the Commonwealth and in "The

¹ This Act is contained in Chapter 819 of the 1998 Acts of the General Assembly, and takes effect on July 1, 1998.

Virginia Register of Regulations," Vol. 14, Issue 17, May 11, 1998, p. 2420. The notice stated that the proposed regulations and forms establish the requirements, procedures and fees under the Act pertaining to registering trademarks and service marks, renewing such registrations, and filing assignments and name changes, as well as establish the classification of goods and services. One comment letter was filed. No one requested to be heard, and, consequently, no hearing was held.

The comment letter was submitted on behalf of the Legislation Committee of the Intellectual Property Section of the Virginia Bar Association. The Division has advised the Commission that this Committee worked closely with the General Assembly and the Division during the legislative process resulting in enactment of the Act.

The Committee recommended three technical, minor changes to the proposed regulations. The Division recommends that two of these changes be accepted and, accordingly, that the regulations be modified by including the term "drawing" in the definition of "Exhibit" in 21 VAC 5-120-10 and by adding a new regulation, 21 VAC 5-120-90, to clarify that the Commission's Rules of Practice and Procedure, so far as practicable, apply to petitions for cancellation of a mark. The Committee and the Division agreed that the third change, modification of the forms, is not necessary.

The Commission, upon consideration of the proposed regulations, the comment letter, and the recommendation of the Division, is of the opinion and finds that the proposed regulations should be modified as set forth above and adopted.

Accordingly, IT IS ORDERED THAT:

(1) The comment letter and evidence of mailing and publication of notice of the proposed regulations be filed in and made a part of the record of this case.

(2) The proposed regulations previously noticed be, and they hereby are, modified as described above and adopted, effective July 1, 1998. A copy of the regulations as hereby adopted is attached to and made a part of this order.

(3) This matter is dismissed from the Commission's docket and the papers herein be placed in the file for ended causes.